



New Jersey Office of the Attorney General



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

Division of Consumer Affairs
Office of the Director
124 Halsey Street, 7th Floor, Newark NJ 07102-3017

ANDREW J. BRUCK
Acting Attorney General

SEAN P. NEAFSEY
Acting Director

Mailing Address:
P.O. Box 45027
Newark, NJ 07101
(973) 504-6534

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Re: Legal Standard for License Plate Frames

Dear New Jersey Motor Vehicle Dealer:

The Division of Consumer Affairs is writing to provide you with information regarding the sale or advertisement of license plate frames or identification marker holders that obscure part of the registration plate. In particular, we are writing with information regarding the Supreme Court of New Jersey's decision in State v. Carter, 247 N.J. 488 (2021), on August 2, 2021, and its effect on the Division's application of the Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-2 et seq., to such sales and advertisements.

N.J.S.A. 39:3-33 states in part: "No person shall drive a motor vehicle which has a license plate frame or identification marker holder that conceals or otherwise obscures any part of any marking imprinted upon the vehicle's registration plate or any part of any insert which the director, as hereinafter provided, issues to be inserted in and attached to that registration plate or marker." A person violating this provision is subject to a fine not exceeding \$100 for the first violation or \$200 for a subsequent violation, and may be subject to a term of imprisonment in the event of a default.

Carter addressed the meaning of N.J.S.A. 39:3-33. In Carter, the Supreme Court concluded that "section 33 requires that all markings on a license plate be legible or identifiable." Carter, 247 N.J. at 520. "If a license plate frame or holder conceals or obscures a marking such that a person cannot reasonably identify or discern the imprinted information, the driver would be in violation of the law." Id. at 520-21. "In other words, a frame cannot cover any of the plate's features to the point that a person cannot reasonably identify a marking. So, for example, if even a part of a single registration letter or number on a license plate is covered and not legible, the statute would apply because each of those characters is a separate marking. If 'Garden State,' 'New Jersey,' or some other phrase is covered to the point that the phrase cannot be identified, the law would likewise apply. But if those phrases were partly covered yet still recognizable, there would be no violation." Id. at 521.

As a result, a license plate frame or holder that covers only ten or fifteen percent of the "Garden State" slogan while leaving the slogan fully legible would not violate the law. Id. Specifically, the Supreme Court concluded that the license plate frame pictured below would be permissible:



Motor vehicle dealers and others who sell or advertise license plate frames or identification marker holders—which includes the sale of vehicles with such frames or markers—to New Jersey residents should be aware of this statute and its interpretation in Carter.

In particular, they should be aware that it may violate the CFA for a motor vehicle dealer, auto parts retailer, or other entity to sell or advertise license plate frames, identification marker holders that conceal or obscure a marking on the license plate in a way that the marking cannot reasonably be identified or discerned, without adequately informing consumers that such frames or holders may cause them to violate New Jersey law.

In light of Carter, the sale or advertisement of a license plate frame or identification marker holder such as the one pictured above would not violate the CFA, but merchants should exercise caution in selling or advertising license plate frames or identification marker holders that may conceal or obscure more of a license plate or identification marker than the Supreme Court's decision allows.

Respectfully,

/s/ Sean Neafsey

Sean P. Neafsey
Acting Director